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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1965

No. [redacted] 165

ROLLAND B. McMASTER,
Petitioner,

v.

UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI

To the United States Court of Appeals for the Sixth Circuit.

MORRIS A. SHENKER,
MURRY L. RANDALL,
408 Olive Street,
St. Louis 2, Missouri,
LAWRENCE A. BURNS,
2850 Guardian Building,
Detroit, Michigan 48226,
Attorneys for Petitioner.

St. Louis Law Printing Co., Inc., 415 N. Eighth Street. CEntral 1-4477.

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Petitioner prays that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the Sixth Circuit, entered in this cause on March 25, 1965.

OPINION BELOW.

The opinion of the Court of Appeals (Appendix, infra) is not yet reported.

JURISDICTION.

The judgment of the Court of Appeals was entered on March 25, 1965. A timely petition for rehearing was overruled on April 21, 1965. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

QUESTIONS PRESENTED.

1. Whether, where the Court erroneously admitted a statement of a co-defendant to an F. B. I. Agent as to petitioner, without any limiting instruction at the time it was admitted, such evidence was prejudicial as to petitioner.

2. Whether the case should be remanded to the Sixth Circuit to consider many issues which were raised there in good faith, because the Court below did not adequately consider them.

STATUTES INVOLVED.

29 U. S. C. 186 provided at the relevant time in pertinent part:

"(a) It shall be unlawful for any employer to pay or deliver, or to agree to pay or deliver, any money or other thing of value to any representative of any of his employees who are employed in an industry affecting commerce.

"(b) It shall be unlawful for any representative of any employees who are employed in any industry affecting

commerce to receive or accept, or to agree to receive or accept, from the employer of such employees any money or thing of value.

(c) The provisions of this section shall not be applicable * * * (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business * * *."

STATEMENT.

The indictment charged petitioner, a Detroit Teamster labor union officer, in thirty-two counts with receiving a total of $8,823.28 in 32 payments from one William F. Wolff, Sr., President of Youngstown Cartage Co., an employer, in violation of 29 U. S. C. 186 (b). The indictment also charged Wolff with making said payments. It further alleged that petitioner received said payments through Ram Transport, Inc., which petitioner was alleged to own. Wolff was directly charged with causing Youngstown to make said payments to petitioner, not through Ram Transport, Inc. (App. 5a-34a).

Petitioner's pretrial motions to dismiss (App. 37a) and for a Bill of Particulars (App. 35a), were overruled (App. 39a, 40a). The motion for particulars requested, *inter alia*, the manner in which petitioner received and accepted such payments through Ram Transport, Inc.

During the pertinent period, September 1956 through July 1959, defendant Wolff was President of Youngstown Cartage Company, a trucking company, which had a terminal in Detroit. Youngstown made the alleged 36 payments to Ram Transport, Inc. by means of 36 checks (Ex. 18). Each check was endorsed by petitioner's then wife, Mrs. Yvonne McMaster,[1] and bears the stamp of the De-

[1] They were later divorced, and she was deceased at trial time.